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Crimes and Offenses -- Paroles  
-- Sentences

A person convicted of  
attempting to traffic in  
cocaine is eligible for parole  
consideration when a person  
convicted of trafficking in  
cocaine is eligible.

Dear Sirs:

This opinion is issued in response to your request for an  
opinion from the Attorney General.

QUESTION

If any person is convicted of  
trafficking in cocaine, in a quantity  
between 500 grams and one kilogram, Section  
20-2-80(2)(b) requires a sentence of not  
less than 5 years. Trafficking in cocaine  
in quantities in excess of one kilogram  
requires a sentence of not less than 15  
years. Section 20-2-81 provides that any  
person "who is found to have violated  
Section 20-2-80" shall not be eligible  
until he serves the mandatory minimum  
sentence.

If a person is convicted of "Attempting to Traffic in Cocaine" and receives a life sentence, and the quantity involved was one kilogram, when may this Board schedule him for parole consideration hearing?

FACTS AND ANALYSIS

Code of Alabama 1975, §13A-12-203(c) (1989 Cum. Supp.) provides as follows:

"(c) An attempt to commit a controlled substance crime shall be punished the same as the controlled substance crime attempted."

Trafficking in cocaine, §13A-12-231(2), is a controlled substance crime.

Code of Alabama 1975, §13A-12-231(2)(c) provides the following punishment for trafficking in cocaine:

"If the quantity involved:

\* \* \*

"c. Is one kilo, but less than 10 kilos, then such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.00. . . ."

Pursuant to this section and §13A-12-203(c), a person convicted of attempting to traffic in cocaine, where the amount of cocaine involved is one kilogram, would be subject to a mandatory minimum sentence of 15 years.

Code of Alabama 1975, §13A-12-232(a) provides, in pertinent part, as follows:

"(a) Notwithstanding the provisions of Chapter 22, Title 15, or any other provision of law, with respect to any person who is found to have violated section 13A-12-231, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall

such person be eligible for any type of parole, . . . prior to serving the mandatory minimum term of imprisonment prescribed in this article or 15 years, whichever is less. . . ."

Because a person who is convicted of attempting to traffic in cocaine is punished as if he had committed the offense of trafficking in cocaine under §13A-12-231, that person would be eligible for parole at the same time as a person convicted of trafficking in cocaine.

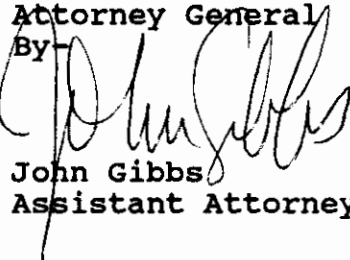
CONCLUSION

A person convicted of attempting to traffic in cocaine where the amount involved was one kilogram would be eligible for parole consideration after serving 15 years. A person convicted of attempting to traffic in cocaine is punished the same as one who traffics in cocaine and, therefore, is eligible for parole consideration when a person convicted for trafficking in cocaine is eligible.

I hope that this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

Don Siegelman  
Attorney General  
By-

  
John Gibbs  
Assistant Attorney General

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